

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

INTERNATIONAL CONSTRUCTION  
PRODUCTS LLC,

Plaintiff,

v.

CATERPILLAR INC., KOMATSU  
AMERICA CORP., VOLVO  
CONSTRUCTION EQUIPMENT NORTH  
AMERICA, LLC and ASSOCIATED  
AUCTION SERVICES, LLC, doing business  
as Cat Auction Services,

Defendants.

C.A. No. 1:15-cv-00108-RGA

**DEFENDANT CATERPILLAR INC.’S MOTION TO DISMISS  
INTERNATIONAL CONSTRUCTION PRODUCTS LLC’S COMPLAINT  
PURSUANT TO FED. R. CIV. P. 12(b)(6)**

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendant Caterpillar Inc. (“Caterpillar”) hereby moves to dismiss all Counts asserted against Caterpillar in Plaintiff International Construction Products LLC’s Complaint (D.I. 1) for failure to state a claim upon which relief can be granted. As Caterpillar understands the Complaint, Counts 1-8 and 11-18 are asserted against Caterpillar; Counts 9-10, are not. To the extent Plaintiff contends all Counts are asserted against Caterpillar, Caterpillar moves to dismiss all Counts. The grounds for this Motion are fully set forth in the Joint Opening Brief In Support of Defendants’ Motions to Dismiss Complaint, which has been filed contemporaneously herewith and is incorporated fully by this reference.

WHEREFORE, Defendant Caterpillar respectfully requests that the Court dismiss all Counts of the Complaint (D.I. 1).

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Dated: April 20, 2015

Respectfully submitted,

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*Attorneys for Defendant Caterpillar Inc.*

**CERTIFICATE OF SERVICE**

I, David J. Baldwin, hereby certify that on April 20, 2015, the attached documents were electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the documents have been filed and are available for viewing and downloading:

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